

JOSEPH WHITTEMORE

June 1, 2006

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<p>1 Q. Well, he was prescribed Naprosyn 2 for 30 days, right? 3 A. Right. 4 Q. And it was discontinued when he 5 went to the hospital, right? 6 A. Yes. 7 Q. Nineteen days later, approximately? 8 A. Yeah. 9 Q. So what would you do with the rest 10 of the medicine that was left on his card? 11 A. It would have been sent back to the 12 pharmacy or destroyed. We wouldn't have kept it. 13 Q. Do you recall your first encounter 14 with Scott Rodgers? 15 A. No. 16 Q. When did he first complain to you 17 about his stomach? 18 A. I don't remember it very well, but 19 apparently it was that day on morning med rounds. 20 Q. What happened? 21 A. To the best of my recollection, he 22 said that he had a stomach ache, and he wanted 23 Maalox or Mylanta, which I gave him, and then 24 later that day he was sent down to the medical</p>	<p>1 A. No, I don't recall. 2 Q. Do you recall anything else about 3 the discussion other than what you've said, the 4 day of the incident? 5 A. No. 6 Q. How did he get into the medical 7 area? 8 A. He had complained to the officer on 9 the unit that he was throwing up, wasn't feeling 10 well, so he had him come down to medical. 11 Q. Does he come by himself, or does he 12 have to be escorted? 13 A. No, he can come by himself. 14 Q. Who did he complain to, what 15 officer? 16 A. I don't know. 17 Q. Was there any particular officer 18 that he had complained to, or just whoever was 19 nearby? 20 A. There was probably two officers in 21 the unit, and you know, I don't recall which 22 officer called me. 23 Q. Would that be logged anywhere? 24 A. It may be. It should be.</p>
<p style="text-align: center;">Page 39</p> <p>1 department with stomach cramps and nausea and 2 vomiting. I assessed him and sent him to the 3 hospital. 4 Q. Is there something in there that 5 was relevant to that last question? Is there 6 some note in there about your meeting with him 7 that you were reading? 8 MR. BREEN: Objection. 9 Q. I'm just making sure this is from 10 your memory or is it from -- 11 A. No, it's from my memory. There is 12 nothing in here. 13 Q. Was that the only time that he 14 complained to you? 15 MR. BREEN: Objection. 16 A. As far as I know, yeah. I believe 17 that was the first time, and then it was that day 18 that he went to the hospital. 19 Q. You're saying he asked for Mylanta 20 or Maalox? 21 A. Yeah. 22 Q. You didn't have a discussion with 23 him two days before that? 24 MR. BREEN: Objection.</p>	<p>1 Q. Where would that be logged? 2 A. Probably in the logbooks for the 3 unit. The COs have to fill out logbooks, people 4 coming and going, you know, inmates, in the unit, 5 movement. 6 Q. These logbooks are kept -- 7 A. I would imagine -- 8 Q. -- every day? 9 A. Yes, yes. 10 Q. What did that officer tell you when 11 he called? 12 MR. BREEN: Objection. Go ahead. 13 A. I don't recall specifically, but he 14 must have said, you know, Scott Rodgers isn't 15 feeling well. He's throwing up. Can he be seen? 16 Something along those lines I'm sure. I don't 17 recall specifically. I just remember he came 18 down. 19 Q. What did you do when Scott Rodgers 20 complained to you of these symptoms other than 21 giving him Maalox? 22 A. At the time, nothing. I gave him 23 his Maalox, gave him his meds. I'm not sure if I 24 gave him the Naprosyn that morning or not, but</p>

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1 A. That he vomited, and the vomit was 2 brown, maroon in color. 3 Q. What does that -- to you what did 4 that signify? 5 A. That he possibly had a G.I. bleed. 6 Q. But you don't remember him saying 7 anything else? 8 A. No. Who? 9 Q. Officer Murray, I'm sorry. 10 A. No. 11 Q. Prior to that, prior to this day, 12 did Rodgers send out any sick call requests? 13 A. I don't know. 14 Q. Are sick call requests maintained 15 by the county? 16 A. For a little while. 17 Q. How long? 18 A. I'm not sure. 19 Q. Had you spoken to him prior to that 20 day? 21 MR. BREEN: Objection. 22 A. I really don't remember. After 23 this day, I remember him. I didn't really know 24 him.	1 Q. Would you discuss contraindications 2 with other medicines? I'm sorry, strike that, 3 please. 4 Would you discuss allergies to 5 medication? 6 MR. BREEN: Objection. 7 A. We wouldn't discuss them. I mean, 8 either they have the allergy or not. It would be 9 noted on the med sheet and in his chart. 10 Q. What are NSAIDs? 11 A. Nonsteroidal anti-inflammatories. 12 Q. Is that what Naprosyn is? 13 A. Yes. 14 Q. So if someone is allergic to that, 15 what -- 16 A. We wouldn't give them that, and we 17 wouldn't give them aspirin, and we wouldn't give 18 them Advil or -- there's quite a few. 19 Q. What would happen if you did give 20 someone Naprosyn who was allergic to nonsteroidal 21 anti-inflammatories? 22 MR. BREEN: Objection. 23 A. It would depend on the nature of 24 their allergy, I mean.
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1 Q. Were there any discussions with 2 Dr. Howard or John Smith about Scott Rodgers? 3 A. Before this, I don't remember. I 4 don't think so. 5 Q. What about his prior medical 6 history, did you know that? 7 A. I didn't know much of it, no. 8 Q. Did he have an ulcer prior to 9 coming to Plymouth County? 10 A. I don't know if he did or he 11 didn't. It might say that in here. I didn't 12 know. He may have. 13 Q. Would someone's prior medical 14 condition be something you would discuss with the 15 doctor? 16 A. On occasion. 17 Q. What would it depend on? 18 A. If it was significant for -- well, 19 if something happened or if it was, you know, a 20 point of interest or, you know, kind of a 21 learning situation, Dr. Howard wanted us to know 22 about something. Certainly it was too hard to 23 discuss everybody's past medical history 'cause 24 there's just so many people there.	1 Q. If it was severe? 2 MR. BREEN: Objection. 3 A. Well, not just the severity but the 4 type of allergic reaction. If it was anaphylaxis 5 or if it was just, you know -- 6 Q. What does that mean? 7 A. With severe anaphylaxis, your 8 throat will close up. You know, breathing, 9 respiratory distress, that sort of thing. Like, 10 you know, some people get stung by bees and get 11 anaphylaxis. Some medications will affect you 12 that way. It depends on what kind of reaction it 13 was known that he had, you know. 14 Q. Would that be something that would 15 tend to exacerbate the side effects of a certain 16 medicine? 17 MR. BREEN: Objection. 18 A. I don't know if I'm qualified to 19 answer that. Ask it again. 20 Q. Okay. I'll put it a little bit 21 differently. Would that exacerbate the potential 22 side effects of Naprosyn, if someone was allergic 23 to nonsteroidal anti-inflammatories? 24 MR. BREEN: Objection.

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1 MR. BREEN: Objection.	1 know, that he was in the hospital or that he was
2 A. Anywhere between probably four to	2 coming back or whatever and he's okay.
3 seven days a week.	3 Q. Do you remember anything else about
4 Q. How many hours per day?	4 the conversation?
5 A. I don't know.	5 A. No.
6 Q. Approximately?	6 Q. Was that the only time that you
7 A. If I had to guess --	7 talked about Scott Rodgers?
8 MR. BREEN: Just tell him what you	8 A. We talked about it a little bit
9 know.	9 just recently, just the fact that we were both
10 A. I don't know.	10 being deposed.
11 Q. What about in 2001, how many days a	11 Q. What was said in that conversation?
12 week was he there?	12 A. I said -- nothing specifically
13 A. I don't know. Most every day.	13 other than I had to come here on Thursday and the
14 Q. You're an employee of Plymouth	14 time and are you coming as well.
15 County, right?	15 Q. And what did he say?
16 A. Correct.	16 A. He said he wasn't sure.
17 Q. Do you have any type of employment	17 Q. But he received the notice of
18 contract or --	18 deposition --
19 A. No.	19 MR. BREEN: Objection.
20 Q. You're just a standard employee?	20 Q. -- according to what he said to
21 A. (Witness nods.)	21 you?
22 Q. Right?	22 A. He knew about the deposition, that
23 A. Right.	23 I was being deposed at least.
24 Q. What about Dr. Howard?	24 Q. Did he say anything about why he
Page 79	Page 81
1 A. He's a contractor.	1 doesn't have a lawyer?
2 Q. Does he work for a company or does	2 MR. BREEN: Objection.
3 he work on his own?	3 A. No.
4 A. He works on his own.	4 Q. Did you talk about anything else
5 Q. Do you know the nature of the	5 other than the fact that you both had to come
6 relationship, contractual relationship at all?	6 here this afternoon?
7 A. No.	7 A. No.
8 Q. Do you know where he went to	8 Q. How did he seem to you when you
9 medical school?	9 discussed it? What were your observations of his
10 A. Yale.	10 demeanor?
11 Q. College?	11 A. Just like he always is. He didn't
12 A. Yale, I think.	12 seem particularly --
13 Q. How old is he?	13 Q. How is he always?
14 A. I don't know. 60, 65.	14 A. He's a nice guy. He's funny. He's
15 Q. Have you had any discussions with	15 personable. He didn't seem flustered or worried.
16 him at any time about Scott Rodgers?	16 Q. But you've never talked about
17 A. Yes.	17 depositions with him prior to this?
18 Q. When?	18 A. No.
19 A. After he was sent out.	19 Q. So you don't know if he's ever been
20 Q. Can you describe that conversation?	20 deposed before?
21 A. I don't really recall the	21 A. I have no idea.
22 conversation.	22 Q. Okay. I think that's it.
23 Q. Do you remember any part of it?	23 MR. BREEN: Just give me a minute.
24 A. No. Just that we touched base, you	24 (Discussion off the record.)

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<p style="text-align: right;">Page 82</p> <p>1 EXAMINATION 2 BY MR. SULLIVAN: 3 Q. I want to just make sure I 4 understand. The medical log, is that the same 5 thing as the medical administration book? 6 A. Yeah. 7 Q. Okay. And then the intake form 8 would be the initial intake? 9 A. (Witness nods.) 10 Q. And then the third thing would be 11 the physical examination form? 12 A. Yes. 13 Q. It's just those three things? 14 A. Yes. 15 Q. Okay. I just wanted clarification 16 on those three. Thank you.</p> <p>18 EXAMINATION 19 BY MR. BREEN: 20 Q. Mr. Whittemore, you were asked by 21 Attorney Tumposky whether you had spoken about 22 Scott Rodgers at all with Dr. Howard. Do you 23 recall that question being asked of you? 24 A. Yes.</p>	<p>1 the doctor to get an official order that he's 2 being sent out, just so the doctor is aware of 3 it. 4 Q. And you made Dr. Howard aware at or 5 around the time that you sent out Mr. Rodgers 6 that you were going to do so or had done so, 7 correct? 8 A. Yes. 9 Q. That's all the questions I have. 10 Are you all set? 11 MR. TUMPOSKY: I want a little 12 clarification on that last conversation. 14 FURTHER EXAMINATION 15 BY MR. TUMPOSKY: 16 Q. How long before you called the 17 ambulance or how long -- relative to the time 18 that you called the ambulance, when did that 19 conversation occur? 20 A. Probably within five minutes. 21 Q. Before or after? 22 A. It was probably after. I 23 probably -- I put in motion to send him out, and 24 then I called Dr. Howard.</p>
<p style="text-align: right;">Page 83</p> <p>1 Q. And you testified that there was 2 some point in time after Mr. Rodgers had been 3 sent to the hospital that you touched base with 4 Dr. Howard, and you learned he would be returning 5 to the facility, correct? 6 A. Yes. 7 Q. And you mentioned that you had had 8 a brief discussion recently with Dr. Howard about 9 the fact that you would be appearing for a 10 deposition here today, correct? 11 A. Yes. 12 Q. And you've recounted everything you 13 remember about that discussion, correct? 14 A. Yes. 15 Q. Did you also contact Dr. Howard at 16 or around the time that Mr. Rodgers reported to 17 the medical facility or the medical area before 18 you sent him to Jordan Hospital? 19 A. Yes, right about at the same time. 20 Q. Tell me about that conversation. 21 What did you do? 22 A. When we're going to send somebody 23 out, we notify the shift commander, we notify the 24 hospital that the patient is coming, and we call</p>	<p>1 Q. Did you describe the symptoms to 2 him? 3 A. I'm sure I did, yes. 4 Q. What did he say to you? 5 A. Okay. 6 Q. Just that, that's it? 7 A. Yeah. 8 Q. Okay. 9 MR. BREEN: Nothing further. 10 Thanks. 11 MR. SULLIVAN: Nothing further. 12 (Deposition concluded at 1:16 p.m.)</p>

22 (Pages 82 to 85)

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1 CERTIFICATE		1 CORRECTION SHEET	
2 I, Maryellen Coughlin, a Registered		2 DEONENT: JOSEPH A. WHITTEMORE	
3 Professional Reporter and Notary Public of the		3 CASE: SCOTT RODGERS VS. CORRECTION OFFICER	
4 State of Massachusetts, do hereby certify that		4 ORCHID, ET AL	
5 the foregoing is a true and accurate transcript		5 DATE TAKEN: 6/1/06	
6 of my stenographic notes of the deposition of		6 *****	
7 JOSEPH A. WHITTEMORE. Who appeared before me,		7 PAGE / LINE / CHANGE OR CORRECTION AND REASON	
8 satisfactorily identified himself, and was by		8 / /	
9 me duly sworn, taken at the place and on the		9 / /	
10 date hereinbefore set forth.		10 / /	
11 I further certify that I am neither		11 / /	
12 attorney nor counsel for, nor related to or		12 / /	
13 employed by any of the parties to the action in		13 / /	
14 which this deposition was taken, and further		14 / /	
15 that I am not a relative or employee of any		15 / /	
16 attorney or counsel employed in this case, nor		16 / /	
17 am I financially interested in this action.		17 / /	
18 THE FOREGOING CERTIFICATION OF THIS		18 / /	
19 TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION OF		19 / /	
20 THE SAME BY ANY MEANS UNLESS UNDER THE DIRECT		20 / /	
21 CONTROL AND/OR DIRECTION OF THE CERTIFYING		21 / /	
22 REPORTER.		22 / /	
23		23 / /	
24 MARYELLEN COUGHLIN, RPR		24 / /	
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1 UNITED STATES DISTRICT COURT		1 Today's Date: July 31, 2006	
2 DISTRICT OF MASSACHUSETTS		2 To: William P. Breen, Jr., Esq.	
3 C.A. NO. 04-11842-PBS		3 Copied to: Michael Tumposky, Esq.	
4		4 Robert F. Sullivan, Esq.	
5 * * * * *		5 From: Maryellen Coughlin, RPR	
6 SCOTT RODGERS, *		6 Deposition of: Joseph A. Whittemore	
7 Plaintiff *		7 Taken: June 1, 2006	
8 vs. *		8 Action: Scott Rodgers vs. Correction	
9 CORRECTION OFFICER ORCHID, *		9 Officer Orchid, et al	
10 UNKNOWN CORRECTION OFFICER JOHN *		10	
11 DOE, JOE WHITMORE, DR. HOWARD, *		11 Enclosed is a copy of Mr. Whittemore's	
12 JOHN SMITH, PLYMOUTH COUNTY, *		12 deposition. Pursuant to the Rules of Civil	
13 Defendants *		13 Procedure, Mr. Whittemore has thirty days to	
14 * * * * *		14 sign the deposition from today's date.	
15		15 Please have Mr. Whittemore sign the	
16 I, JOSEPH A. WHITTEMORE, do hereby		16 enclosed signature page. If there are any	
17 certify, under the pains and penalties of		17 errors, please have him mark the page, line, and	
18 perjury, that the foregoing testimony is true		18 error on the enclosed correction sheet. He	
19 and accurate, to the best of my knowledge and		19 should not mark the transcript itself. This	
20 belief.		20 addendum should be forwarded to all interested	
21 WITNESS MY HAND THIS ____ day of		21 parties.	
22 _____, 2006.		22 Thank you for your cooperation in this	
23		23 matter.	
24 JOSEPH A. WHITTEMORE		24	